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Rudiger Theis

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EXAMINER

FRANCIS, MARK P

ART UNIT

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2193

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/604,823	Applicant(s) THEIS, RUDIGER	
	Examiner MARK P. FRANCIS	Art Unit 2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 11, 2008 has been entered.
2. Claims 1-14 have been examined.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 7, where Applicant states, "causing the device,...", it is not clear which device Applicant is referring to, the program-controlled device or the Web-accessing device. Previously in claim 1, Applicant mentions two different devices; The first device is the program-controlled device that is to get upgraded and the second

device is the Web-accessing device that is separate from the program-controlled device.

The rejection of the base claims are incorporated into their dependent claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4,7-10, and 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Pratt. (U.S. Pat 7,043,537)

Independent claims

With respect to claims 1 and 8, Pratt discloses a method for performing an update of a program in a program-controlled device,(Col 2:15-25, "...to update available features,...or version information by modifying only...") wherein the method comprises

the steps of: causing the device, initiated by the external Web browser(e.g. See Fig. 2, element 110 Remote Client), to request update information for an update of a program of the program-controlled device from the Web server;(Col 2:15-25, "...thereby enabling the programmer to update available features...", Col 3:20-36, '...to download a software ...the most up-to-date network device management software...to update or improve the available functions...') downloading the requested update information from the Web server(e.g. see Fig. 2, element 185 Web server) to the external Web browser,(e.g. See Fig. 2 element 130 Web engine) wherein the requested update information is being passed through the program-controlled device to the external Web browser; (Col 2:56-67, "...The remote client requests a function...locates and forwards the corresponding downloadable unit...")

caching the requested update information by a program code executed in the external Web browser; (Col 2:15-30, "...remote client may store the downloadable unit(e.g. in cache) for continued management...")

and programming the requested update information into the program-controlled device by the program code executed in the external web browser.(Col 4:30-47, "...The software program compiler compiles a software program into machine code...")

With respect to claim 12, Pratt discloses a program code executable in a Web browser and configured to cache update information received via a program-controlled device (Col 2:15-30, "...remote client may store the downloadable unit(e.g. in cache) for continued management...")

and to program the update information that has been cached into the program-controlled device. (Col 4:30-47, "...The software program compiler compiles a software program into machine code...")

Dependent claims

With respect to claims 2,10, and 13, the rejection of claims 1, 8 and 12 are incorporated respectively and further, Pratt discloses that the program code executable in the external Web browser is a Java applet. (Col 2:35-45, "...in a Java environment, an applet will be used to manage the network device...")

With respect to claim 3, the rejection of claim 1 is incorporated and further, Pratt discloses further comprising the steps of storing the program code executable in the external Web browser in the program-controlled device and making available the program code to the Web browser by the program-controlled device for a duration of an update that is performed. (Col 2:15-30, "...remote client may store the downloadable unit(e.g. in cache) for continued management...")

With respect to claim 4, the rejection of claim 1 is incorporated and further, Pratt discloses further comprising the steps of storing the program code executable in the external Web browser in a Web server and making available the program code to the external Web browser by the program-controlled device. (Col 7:40-50, "...then sends

the located downloadable unit to the web server, which transmits it to the remote client...")

With respect to claim 7, the rejection of claim 1 is incorporated and further, Pratt discloses that, in the step of programming the update information into the program-controlled device, a user input the scope of the program code executable in the external Web browser is enabled. (Col 5:45-58, "...the user interface...to enable communication via the output device and the input device...")

With respect to claim 9, the rejection of claim 8 is incorporated and further, Pratt discloses that the stored program code executable in the external Web browser is made available to the connected external Web browser for carrying out an update of the at least one program. (Col 3:20-37, "...to update or improve the available functions, a revised downloadable unit...")

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-6,11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pratt(U.S. Pat 7,043,537) in view of Craig. (U.S. Pat 6,266,809)

Regarding claim 5,

the rejection of claim 1 is incorporated and further,

Pratt does not disclose that the trivial file transfer protocol (TFTP) is employed in the step of programming.

Craig discloses that the trivial file transfer protocol (TFTP) is employed in the step of programming. (Col 2:30-35, "...Trivial File Transfer Protocol...")in an analogous system for the purpose of providing a fast, easy, secure and error-free updating of network device programs.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to program to install the update on the program-controlled device using the trivial file transfer protocol.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a fast, easy, secure and error-free updating of network device programs.

Regarding claims 6 and 11,

The rejection of claim 1 and 8 are incorporated respectively and further,

Pratt does not disclose that further comprising the steps of checking with at least one of the program code executable in the external Web browser and the program-controlled device at least one of completeness or error-freeness of the update information before the step of programming the update information into the program-controlled device and, when an error is detected, carrying out error elimination with at least one of the program code executable in the external Web browser and the program-controlled device.

Craig discloses the steps of checking with at least one of the program code executable in the external Web browser and the program-controlled device at least one of completeness or error-freeness of the update information before the step of programming the update information into the program-controlled device and, when an error is detected, carrying out error elimination with at least one of the program code executable in the external Web browser and the program-controlled device. (Col 6:50-62, "...If the update was not successful...") in an analogous system for the purpose of providing a fast, easy, secure and error-free updating of network device programs.

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to program to check the update for errors, and to perform error elimination on any discovered errors prior to installing the update on the program-controlled device.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a fast, easy, secure and error-free updating of network device programs.

Regarding claim 14,

The rejection of claim 12 is incorporated and further,

Pratt does not disclose configured to check the update information received via the program-controlled device for at least one of completeness and error-freeness and configured to perform error elimination, when an error has been found, before programming the update information into the program-controlled device.

Craig discloses configured to check the update information received via the program-controlled device for at least one of completeness and error-freeness and configured to perform error elimination, when an error has been found, before programming the update information into the program-controlled device. (Col 6:50-62, "...If the update

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was not successful...") in an analogous system for the purpose of providing a fast, easy, secure and error-free updating of network device programs.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to program to check the update for errors, and to perform error elimination on any discovered errors prior to installing the update on the program-controlled device.

The modification would have been obvious because one of ordinary skill in the art would have been motivated to provide a fast, easy, secure and error-free updating of network device programs.

Response to Arguments

9. Applicant's arguments with respect to claims 1-14 on January 11, 2008 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK P. FRANCIS whose telephone number is (571)272-7956. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor, Lewis Bullock can be reached on (571)272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner
Art Unit 2193

/Lewis A. Bullock, Jr./
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